

REMARKS

Claims 1-3, 5-13, 15-21, 23-29, and 31-45 remain for reconsideration.

Claims 4, 14, 22, and 30 were previously cancelled. Claim 20 has been amended to correct punctuation. No new matter has been added.

All claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Application 2002/0046407 to Franco in view of U.S. Patent 6,539,210 to Heredia. This rejection is respectfully traversed based on the following discussion.

Briefly, embodiments of the present invention are directed to a system capable of recording audio broadcasts from both the radio and the Internet by using web pages as a user interface. The primary reference to Franco appears to show using web pages to remotely record a broadcast signal, such as radio and television. However, Franco does not teach or suggest remotely recording Internet broadcasts.

Recognizing this deficiency in Franco, the Examiner has further relied on Heredia for teaching a receiver capable of receiving a signal from either a broadcast radio station or an audio signal from the Internet. However, it may be important to note that Heredia does not teach or suggest actually recording

the audio program from the Internet. Heredia merely appears to teach displaying the call letters for radio stations, both tradition broadcast call letters and Internet radio station "call letters".

Even if combined nothing in the combination of Franco and Heredia teach or reasonably suggest a way to remotely initiate the recording of an Internet broadcast.

Independent claim 1, and similarly independent claims 11, 20, and 28, recites "at least one tuner/sampler device to receive and sample the input signal, wherein the input signal is receivable via at least (a) an Internet and (b) a radio transmission;...a recordation control device to control the recording of the input signal..."

Thus, the claims call for recording the input signal which is receivable from both the "(a) an Internet and (b) a radio transmission"

For each and every claim at issue, the Examiner must make out a case of prima facie obviousness. Referring to MPEP § 2143, titled "Basic Requirements for a *Prima Facie* case of Obviousness", the MPEP mandates that:

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings.

Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not applicant's disclosure." (emphasis added).

Here, it is respectfully submitted that the combination of Franco and Heredia fail at least the first and third prongs of this test.

With regard to the first prong, there is no suggestion or motivation found in either Franco or Heredia to combine the two. The Examiner states in the Office Action that the motivation to combine is "both share a common endeavor, namely, devices that involve broadcast and Internet media". However, this is not a motivation to combine. One viewing Franco's system for remotely recording over-the-air broadcast media would not have looked to Heredia's system for identifying and displaying broadcast and Internet radio station call letters and then thought to start recording Internet streams also. Indeed, Heredia actually itself uses the Internet in their system to initiate remote broadcast recording and they still didn't think to further apply the recording to Internet streams.

With regard to the third prong, as previously noted, even when

combined, neither Franco nor Heredia teaches or suggests a system capable of recording audio from the Internet. If one were to combine Franco and Heredia, the best that could be accomplished is a system that remotely records broadcast programs and identifies available stations. Applicant's claimed system does that plus records Internet audio.

Based on the above discussion, it is respectfully submitted that the combination of Franco and Heredia does not make a case of *prima facie* obviousness and it is respectfully requested that this ground of rejection be withdrawn.

The above notwithstanding, the Examiner has provided no reference which teaches the features found in claims 7, 16, 24 and 32. These claims are directed to starting to record even before prompted to do so by the user. Thus, as explained for example on page 13, second paragraph, this feature may be particularly useful for recording a pop-song since the user may prompt to start the recording well into the song or perhaps even after listening to the song, and the entire song may still be recorded with nothing missed. Indeed, claims 7, and similarly claims 16, 24, and 32, recite "continual recording device to constantly record a signal, and when prompted by a user, continue to record the signal and save to a file, along with signal data that was recorded up to a predetermined time before the user's prompt" (emphasis added).

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Amendment dated December 30, 2004
Response to Office Action of October 22, 2004

Atty. Docket No. 42390.P12608
Examiner: Alan T. Gantt
TC/A.U. 2684

This feature is not taught or remotely suggested by either Franco or Heredia and these claims should be patentable in their own right.

The above features recited in the claims are not taught or suggested by the prior art of record. As such, it is respectfully requested that the outstanding rejections be withdrawn.

In view of the foregoing, it requested that the application be reconsidered, that claims 1-3, 5-13, 15-21, 23-29, and 31-45 be allowed and that the application be passed to issue. Please charge any shortages and credit any overcharges to Intel's Deposit Account number 50-0221.

Respectfully submitted,

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